

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN KATHLEEN GALVIN-HALCRO**, on March 7, 2005 at 3 P.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Kathleen Galvin-Halcro, Chairman (D)
Rep. Joan Andersen, Vice Chairman (R)
Rep. Gary Branae, Vice Chairman (D)
Rep. Edward B. Butcher (R)
Rep. Margaret H. Campbell (D)
Rep. Tim Dowell (D)
Rep. Wanda Grinde (D)
Rep. Roger Koopman (R)
Rep. Joe McKenney (R)
Rep. Holly Raser (D)
Rep. Scott Sales (R)
Rep. Jon Sonju (R)
Rep. Dan Villa (D)
Rep. John Ward (R)
Rep. Jeanne Windham (D)

Members Excused: Rep. Bob Lake (R)

Members Absent: None.

Staff Present: Chris Lohse, Legislative Branch
Eddy McClure, Legislative Branch
Linda Keim, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 171, SB 198, 3/1/2005
Executive Action: SB 57, SB 171

HEARING ON SB 171**SEN. STEVE GALLUS, SD 37, BUTTE****Opening Statement by Sponsor:**

SEN. STEVEN GALLUS opened the hearing on **SB 171**, authority to hire university system athletic coaches for a longer duration. The purpose of this bill is to bring Montana up to date with surrounding states in offering multi-year contracts to athletic coaches. This will level the playing field with other programs across the country, give stability to good coaches in their community, enhance recruitment for both players and coaches, lower employee turnover and lower search and moving costs. Contracts offered would include buy back clauses.

Proponents' Testimony: None.**Opponents' Testimony:** None.**Informational Testimony:** None.**Questions from Committee Members and Responses:** None.**Closing by Sponsor:**

SEN. GALLUS closed by thanking the Committee for hearing SB 171 and asking for their support.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 6}

EXECUTIVE ACTION ON SB 171**Motion:** **SEN. SALES** moved that SB 171 BE CONCURRED IN.**Discussion:**

REP. KOOPMAN asked about being committed to keeping an undesirable coach and whether the university would have to buy out the remaining portion of their contract. **REP. WINDHAM** said it depends upon how the contract is written. She stated that clauses in the contract allow for performance and it is delineated within the contract. They are trying to save money by offering a multi-year contract and it is motivating for the players.

REP. ANDERSON asked why professors of mathematics or nursing school teachers wouldn't be subject to multi-year contracts. **SEN. SALES** said that other professions would be covered under tenure.

Vote: Motion carried 14-2 by voice vote with REP. ANDERSEN and REP. BUTCHER voting no. REP. BUTCHER, REP. LAKE, and REP. RASER voted by proxy.

CHAIRMAN GALVIN-HALCRO stated that REP. FACEY will carry the bill in the House.

CHAIRMAN GALVIN-HALCRO asked if there was any objection to taking Executive Action on SB 57.

REP. VILLA commented that he talked to staff and could not get the amendments drafted. He asked REP. ANDERSEN if it would be okay to do the amendment on the House floor. **REP. ANDERSEN** agreed to allow the amendment on the floor.

EXECUTIVE ACTION ON SB 57

Motion/Vote: REP. BRANAE moved that SB 57 BE CONCURRED IN. Motion carried unanimously 16-0 by voice vote. REP. LAKE voted by proxy.

CHAIRMAN GALVIN-HALCRO stated that REP. ANDERSEN will carry the bill in the House.

{Tape: 1; Side: A; Approx. Time Counter: 6 - 11.8}

HEARING ON SB 198

SEN. SAM KITZENBERG, SD 18, GLASGOW

Opening Statement by Sponsor:

SEN. SAM KITZENBERG opened the hearing on **SB 198**, a bill to require schools to adopt anti-bullying policies on school property, at a school-sponsored function or on a school bus. He emphasized having a safe school policy. He stated that they reviewed 76 school district policies; 29 districts have specific harassment policies and 36 have no policy. He said they are not telling the school district what kind of harassment policy they have to have; they are saying that they should have a policy. He said, "When we are silent, when we don't adopt a bill like this, we give our approval." He said that workers perform better and students learn better if they are in a safe environment. He said that it is the legislature's duty to provide a safe environment so learning can take place for everyone. There are 17 other states that have felt the need to adopt anti-bullying policies.

EXHIBIT(edh50a01)

{Tape: 1; Side: A; Approx. Time Counter: 11.8 - 25.3}

Proponents' Testimony:

Anna Whiting-Sorrell, Policy Advisor for Governor Schweitzer, expressed support and said that a safe school environment is the most important thing that can be brought to students.

SEN. KIM GILLAN, HD 24, said she has worked as a substitute playground and lunchroom supervisor and has spent a lot of time at school. She felt strongly that legislators should send a message to school district that this is an important policy to adopt. She said this does not infringe on local control and will make people stop and think what is happening in public schools. She said most kids don't want to tell their parents they are bullied because the harassment will get worse.

{Tape: 1; Side: A; Approx. Time Counter: 25.3 - 29}

Betty Kijewski, Montana Human Rights Network, said she works with youth targeted by harassment and with families and teachers trying to stem violence in schools. She advocated creating safer schools by prohibiting certain types of aggressive conduct. She said that the focus of the Title IX policy is to prohibit sexual harassment and it has language specific to that. She said a student looking at a sexual harassment policy could not determine that their school prohibits harassment for any other reason. She stated, "It is important to give teachers, administrators and students the tools they need in order to feel confident about responding to harassment." She passed around information about school district policies that she compiled and written testimony from people who weren't able to attend the Hearing.

EXHIBIT (edh50a02)

EXHIBIT (edh50a03)

{Tape: 1; Side: B; Approx. Time Counter: 0 - 5}

Rev. F. Vernon Wright V, Pastor, Plymouth Congregational Church, testified in support. He said this bill is not anti-Christian and he would like a bullying policy for all schools. He said that honest discussion and even debate is fitting Christian behavior, but slamming someone against a locker and calling them names is not acceptable behavior.

Lana Rae, Billings Citizen, told about her son's treatment at school because he had a birth defect. She said that to vote against the bill means a vote to allow harassment and bullying to continue.

EXHIBIT (edh50a04)

{Tape: 1; Side: B; Approx. Time Counter: 5 - 9}

Susan Near, American Association University Women (AAUW), stated that in 1993 AAUW commissioned a national study of more than

2,000 eighth to eleventh graders to find out if students felt threatened at school and found that many did. Written testimony was given to the Committee and read at the Hearing.

[EXHIBIT](#)(edh50a05)

June Hermanson, Montanans with Disabilities for Equal Access (MDEA), said that the disability community comprises 17% of the state's population. She stated, "It is time to unveil kids with disabilities and defend them." She asked for support.

Britinie Horvath submitted written testimony which was read by Barbara Allen (Exhibit 3).

Sherry Jones submitted written testimony which was read by Barbara Allen (Exhibit 3).

{Tape: 1; Side: B; Approx. Time Counter: 9 - 16.8}

Allison James, Great Falls Citizen, former Great Falls English Teacher, told about bullying in the school where she taught. She said that a statewide standardized anti-bullying policy would have given her a tool to teach appropriate conduct and would ensure that the message is taught at all Montana schools.

{Tape: 1; Side: B; Approx. Time Counter: 16.8 - 18.2}

Marlene Snyder, PhD, submitted written testimony which was read by Allison James (Exhibit 3).

Sue McCormick, Superintendent, Polson School District, submitted written testimony which was read by Allison James (Exhibit 3).

{Tape: 1; Side: B; Approx. Time Counter: 18.2 - 21.1}

Denise Juneau, Helena Citizen, submitted written testimony read by Terry Kendrick (Exhibit 3).

Walt Gulick, Citizen, asked, "How could anybody not oppose bullying of any sort?" He said that whenever anyone is perceived as being weak they get beaten up. He urged support of SB 198.

{Tape: 1; Side: B; Approx. Time Counter: 21.1 - 23.4}

Kathleen Harrington, Helena Young Womens Christian Association (YWCA), stated, "We cannot empower the people of this state unless we eliminate discrimination." She passed around written testimony for the record.

[EXHIBIT](#)(edh50a06)

{Tape: 1; Side: B; Approx. Time Counter: 23.4 - 24.2}

Mary McCue, National Association of Social Workers (NASW), said it is sad and disturbing for other children to see someone be bullied. She passed around an article from the NASW Newsletter. [EXHIBIT](#) (edh50a07)

Linda Gryczan, Montana Womens Lobby, said this bill would give a teacher the tools to support students who are being bullied. She said that students read things very literally; the categories are very important and need to be written out.

Kate Cholewa, Montana Coalition Against Domestic and Sexual Violence (MCAPSV), urged support of SB 198.

Cindy Otter, National Association of Social Workers, felt that the only way to deal with harassment was to have an anti-bullying law in place and for schools to support it early on.

Anita Roessmann, Staff Attorney, Montana Advocacy Program, stated that they strongly support the bill.

Jim Rogers, Teacher, Polson High School, submitted written testimony (Exhibit 3).

Jennifer Hendricks, Helena Citizen, submitted written testimony (Exhibit 3).

{Tape: 1; Side: B; Approx. Time Counter: 24.2 - 28}

Opponents' Testimony:

Steve Meloy, Executive Secretary, Montana Board of Public Education, said they oppose the bill because it would impose the Legislature's will on local school districts and bypass the constitutional authority of the Board of Public Education.

{Tape: 1; Side: B; Approx. Time Counter: 28 - 29; Comments: Continued on Tape 2A}

Mr. Meloy stated that they can issue a letter of recommendation, mandate that a policy is written, or tie it to the accreditation status of every school but there has been no request made to do so. He said, "It is our responsibility under the constitution for general supervision." He emphasized that this bill would put the Legislature in the position of having to follow up on compliance. He said they are in place to see what all the proponents want to have done, asked the Committee to recognize that as their role and invited the Committee to work with the Board of Public Education in solving the bullying problem.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 2.4}

Bill Snoddy, Chairman, Lewis and Clark County Republican Central Committee, said that the bill is flawed and local control is a big issue. He said, "Schools should be able to have self direction in these issues." He stated that it is wrong to create classifications that no one should be bullied. He spoke against the bill..

{Tape: 2; Side: A; Approx. Time Counter: 2.4 - 3.9}

Dallas Erickson, Montana Citizens for Decency through Law, said he does not support bullying. He submitted and read his written testimony.

EXHIBIT(edh50a08)

{Tape: 2; Side: A; Approx. Time Counter: 3.9 - 7.6}

Debra Silk, General Counsel of the Montana School Boards Association (MSBA), also speaking on behalf of **Montana Rural Education Association**, said both organizations oppose SB 198 because it is an issue of local control. She passed out copies of MSBA Executive Director, Lance Melton's testimony to the Senate Education Committee.

She stated that under this bill, the student can be harassed and intimidated as long as it is not based on actual or perceived race, color, religion, ancestry, sexual orientation, national origin, gender, social or economic status, language barrier, homeless status, disability or other actual or perceived distinguishing characteristics. She said the bill would not protect a student unless a distinguishing characteristic could be identified. She stated current statute 20-5-202 reads that any student who harasses, harms or threatens to harm another student is subject to discipline. She suggested adding bullying, intimidation and harassment to the suspension and expulsion provision of the statute. She noted that the bill uses words based upon perception; i.e., "prompt and ensure," and said they are subject to interpretation. She felt that the bill would create needless litigation as a result of that language.

She said that when students are in the care, custody and control of a school district that the school district is responsible for them. When employees and trustees observe harassment, bullying, drugs, weapons or anything unhealthy to school environment, they have an obligation under existing law to ensure that it stops. Most districts have policies and every school has a disciplinary code where they state that harassment and bullying will not be put up with in schools. If they don't have that specifically they say that anything that is disruptive to the educational process is grounds for suspension or expulsion. She said it is already covered in policy and the policy might be included in a student or staff handbook.

She noted that this bill imposes new restrictions and says a student can't be harassed, intimidated or bullied on school property or at a school event. She stated that existing case law has determined that if a student is harassed out of the school setting and it has an impact on the educational process, the school can discipline the student.

[EXHIBIT\(edh50a09\)](#)

{Tape: 2; Side: A; Approx. Time Counter: 7.6 - 15.4}

Elaine Sollie Herman, Montana Eagle Forum, said, "We want schools to be 100% safe and this is not possible when you mix politics and education." She passed out "What Do Bullies Do?" and said it came from a local bully policy. She said the program is trying to manipulate thoughts and feelings and is confrontational. She stated, "When you are dealing with feelings, there is a fine line between manipulation and instruction. Feelings cannot and should not be controlled; only actions can be controlled."

[EXHIBIT\(edh50a10\)](#)

{Tape: 2; Side: A; Approx. Time Counter: 15.4 - 20}

Esther Fishbaugh, Bozeman Citizen, said not everyone has a distinguishing feature that makes them a target for bullying. She stated, "This bill will not help control bullying, that can only be helped when teachers monitor the hallways, when there are more eyes on the school bus and the playground and when teachers and administrators step in whenever it is seen." She presented written testimony for the record.

[EXHIBIT\(edh50a11\)](#)

{Tape: 2; Side: A; Approx. Time Counter: 20 - 23}

Becky Stockton, Helena Citizen, said when a special class like sexual orientation is put on the list it gives special rights to certain individuals. She passed out written testimony which she read and other materials: "State of the States 2004, Gay Advocacy a Barrier to Safe Schools for All Children Says Anti-Bullying Advocate, and Family Policy."

[EXHIBIT\(edh50a12\)](#)

[EXHIBIT\(edh50a13\)](#)

[EXHIBIT\(edh50a14\)](#)

[EXHIBIT\(edh50a15\)](#)

Dr. Bill Wise, retired Physician, said he did not hear anyone from a private or a religious school come to complain. He said that his concern is where first amendment rights of free speech stop. He felt that lawsuits may come from this legislation and said this is a flawed bill.

Harris Hines, Montana Family Coalition, stated this bill has a local control issue and said the language is ambiguous. He said that sexual orientation is on the homosexual agenda and stated opposition to the bill.

Rachel Roberts, Montana Family Foundation, voiced opposition.

Larry Chambers, Clancy Citizen, stated opposition.

Eric Schiedemeyer, Montana Catholic Conference, said they oppose any intimidation or harassment in schools. He asked that Section 2, Subsection 2a be struck from the bill.

Kandi Matthew-Jenkins, Citizen, voiced opposition because of the way the bill reads.

Marietta Glase, Citizen, stated opposition because it infringes upon people's rights to speak what they feel and said that this is against our Constitution.

Garth Stevens, Citizen, presented written testimony.

[EXHIBIT](#)(edh50a16)

Informational Testimony: None.

{Tape: 2; Side: A; Approx. Time Counter: 23 - 31}

Questions from Committee Members and Responses:

CHAIRMAN GALVIN-HALCRO referred to Ms. Fishbaugh's testimony and asked her who would pay for "more eyes" to supervise students.

Ms. Fishbaugh said that one of the duties in schools that were "on the ball" was to have hall monitors. She noted that duty would be assigned to teachers who were already hired.

CHAIRMAN GALVIN-HALCRO asked where the harassment form attached to Mr. Melton's letter (Exhibit 9) came from. **Ms. Silk** said this form is a model that is provided to all school districts.

CHAIRMAN GALVIN-HALCRO asked what district the handout "What Do Bullies Do?" came from and what teacher wasn't allowed to pick up their paycheck until it was filled out. **Ms. Sollie-Herman** said she could not disclose either the name or the district without permission.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 2}

REP. KOOPMAN asked about the local control issue. **SEN. KITZENBERG** said that the door is still open for local school districts to adopt their own policy and that model policies have been made

available for the local school board to use. He said the Montana Board of Education had been contacted, asked to take a stand on this issue and provide some options. He said that he felt strongly about local control because if local school boards don't provide a policy they are open to more lawsuits. With this policy if they were sued they would have the defense that they have made attempts to implement a policy.

REP. KOOPMAN asked if any policies that were different from those in the bill would need to change and conform to the bill. **SEN. KITZENBERG** said some existing policies are only one line long and some are vague. He stated this bill tries to give some direction to correct that, but the decision remains with local districts.

REP. KOOPMAN noted the word "motivated" in Subsection 2 of Section 2 and asked if that could be amended out of the bill.

SEN. KITZENBERG said he agreed that "motivation" is hard to prove. He stated that he is agreeable to the change if the Committee feels it should be removed.

{Tape: 2; Side: B; Approx. Time Counter: 2 - 10.4}

REP. KOOPMAN asked Ms. Kijewski about having an amendment that would allow Christian concepts of love and moral teaching in our public schools. **Ms. Kijewski** said she could not speak to that and would have to see the amendment before she could agree to it.

REP. ANDERSEN asked if this bill was patterned after any particular state's policy or if it is unique to Montana. **SEN.**

KITZENBERG said that he did not draft the bill and has not reviewed the other 17 states' policies.

{Tape: 2; Side: B; Approx. Time Counter: 10.4 - 14.3}

REP. ANDERSEN referred to testimony about a survey of school policy and asked if that included the items listed in student handbooks. **SEN. KITZENBERG** said it did include the list. He said that when MSBA sent out their survey it was very misleading and that working with MSBA was difficult. He stated that they weren't specific enough in their first survey and a second survey was necessary. He said that he was disappointed the information he received wasn't more thorough and professional, and as a result it has aroused unnecessary opposition.

REP. WINDHAM asked Mr. Meloy if there is anything that prevents a school district from adopting a policy against harassment or bullying. **Mr. Meloy** said, "No."

REP. WINDHAM asked if any school district had refused to adopt such a policy. **Mr. Meloy** said that he did not know of any.

REP. WINDHAM asked if there was any pending or past litigation involving harassment or bullying against any school district that does not have a policy. **Mr. Meloy** said that he did not know of any and suggested referring the question to Ms. Silk.

REP. WINDHAM asked Ms. Silk the same question. **Ms. Silk** said that she was not aware of any litigation.

{Tape: 2; Side: B; Approx. Time Counter: 10.4 - 19.4}

Closing by Sponsor:

SEN. KITZENBERG thanked the Committee for the Hearing and stated that as a public school teacher his job was not to judge, it was to educate. His job was to protect the students from harassment and bullying so the students could perform better and learn more. He said he is glad he did that because he feels school is a place to model a better society. He stated that it is left up to the school districts to do what they see fit and asked, "Isn't that local control?"

He said that this is not acceptable behavior in Montana schools. "We all believe in quality schools, and having a school that is safe is part of quality." He encouraged the Committee not to ignore the problem, to see that schools adopt a policy similar to the one he has.

CHAIRMAN GALVIN-HALCRO closed the Hearing.

{Tape: 2; Side: B; Approx. Time Counter: 14.3 - 25.9}

ADJOURNMENT

Adjournment: 5:30 P.M.

REP. KATHLEEN GALVIN-HALCRO, Chairman

LINDA KEIM, Secretary

KG/lk

Additional Exhibits:

EXHIBIT ([edh50aad0.PDF](#))